# August 2006

# Update: Criminal Procedure Monograph 6—Pretrial Motions (Third Edition)

## Part 2—Individual Motions

### 6.21 Motion to Compel Discovery

#### 4. Other Provisions of MCR 6.201

By order issued June 29, 2006, the Michigan Court of Appeals vacated its first opinion in *People v Greenfield* (discussed in the June 2006 update to page 51) and issued an opinion identical to the first with the exception of footnote six (discussed below). In the June 2006 update to page 51, change the case citation to *People v Greenfield (On Reconsideration)*, ___ Mich App ___ (2006), and insert the following language after the existing text:

> **Note:** By order issued June 29, 2006, the Michigan Court of Appeals vacated its first opinion in *People v Greenfield* and issued an opinion identical to the first with the exception of footnote six. In footnote six of its reissued opinion, the Court expressly recognized that MCR 6.201 applies only to felony crimes. Footnote six as it appears in the second *Greenfield* opinion reads as follows (added language appears in bold):
>
> > "MCR 6.201 applies to discovery in both the district and circuit courts of this state. See *People v Sheldon*, 234 Mich App 68, 70–71; 592 NW2d 121 (1999); *People v Pruitt*, 229 Mich App 82, 87–88; 580 NW2d 462 (1998). **We recognize that, in Administrative Order 1999-3, our Supreme Court made clear that, contrary to a statement in *Sheldon, supra*, MCR 6.201 applies only to criminal felony cases. While, as a multiple offender, defendant Greenfield was clearly charged with a felony in this case, we reiterate for the bench and bar that MCR 6.201 does not apply to misdemeanor cases.**" *People v Greenfield (On Reconsideration)*, ___ Mich App ___, ___ n 6 (2006).

# Part 2—Individual Motions

## 6.37 Motion to Suppress Evidence Seized Without a Search Warrant

**Discussion**

Insert the following text after the July 2006 update to page 100:

See also *United States v Conley*, ___ F3d ___, ___ (CA 6, 2006), where the Sixth Circuit ruled that ordering a probationer—even a probationer convicted of a "white collar" crime—to submit a DNA sample did not require individualized suspicion and did not violate the prohibition against unreasonable searches. According to the Court:

> "In view of [the defendant]'s sharply reduced expectation of privacy, and the minimal intrusion required in taking a blood sample for DNA analysis for identification purposes only, the government's interest in the proper identification of convicted felons outweighs [the defendant's] privacy interest. Under a totality of the circumstances analysis, the search is reasonable, and does not violate the Fourth Amendment." *Conley, supra* at ___.


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